

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	:	OFFICIAL
WILLIAM S. HALLIDAY, et al.	:	
Serial No.: 10/634,334	:	Group Art Unit: 1712
Filed: August 4, 2003	:	Examiner: PHILIP C. TUCKER
For: WATER-BASED DRILLING FLUIDS	:	Docket No.: 154-23110-USCP
USING LATEX ADDITIVES	:	Date: June 11, 2007

PETITION TO ACCEPT UNINTENTIONALLY DELAYED
PRIORITY BENEFIT CLAIM UNDER 35 U.S.C. §120

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

In reply to the non-final Office Action dated March 29, 2007, setting a shortened statutory period for response of three months, please enter the subject Petition.

An amendment to the specification begin on page 2; this is the same as the amendment to the specification in an Amendment filed of even date, a copy of which accompanies this Petition.

Remarks begin on page 3.

AMENDMENT TO SPECIFICATION

Please amend the **CROSS REFERENCE TO RELATED APPLICATIONS** on page 1 as follows:

[0001] This application is a continuation in part of U. S. Patent Application 09/785,842 filed on February 16, 2001 that issued March 9, 2004 as U.S. Pat. No. 6,703,351 B2, and claims the benefit of U.S. Provisional Application Ser. No. 60/211,162 filed June 13, 2000.

REMARKS

The Applicants would like to thank the Examiner for the quick and courteous non-final Office Action of March 29, 2007.

Priority

The Examiner notes that the application appears to claim subject matter disclosed in prior *provisional* Application No. 60/211162, filed 6/13/2000. The Examiner asserts that a reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e), 120, 121, or 365(c). See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, 121, or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications. If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371 (b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference

required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17 (t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

PETITION

The Applicants hereby petition the Commissioner to accept an unintentionally delayed benefit claim under 35 U.S.C. §120 as helpfully suggested by the Examiner.

(1) A reference required by 35 U.S.C. §120 has been inserted to the prior provisional application, as the Examiner has helpfully suggested.

(2) Fee: The US Patent and Trademark Office is hereby authorized to charge the surcharge of \$1,370.00 under 37 CFR §1.17(t) to Baker Hughes Incorporated's Deposit Account 02-0429 (154-23110-USCP), for this Petition, along with any additional fees necessary for the acceptance of this Petition.

(3) The Applicants hereby state that the entire delay between the date the claim was due under 37 CFR 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional.

Grant of this Petition is respectfully requested.

The Petitions Office is invited to call the Applicants' attorney at the number below for any reason, especially any reason that may help advance the prosecution.

Respectfully submitted,
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/David L. Mossman/

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